

BOARD OF ZONING APPEALS

**Springfield, Ohio
Wednesday February 17, 2021
7:00 P.M.
Virtual Meeting**

**Meeting Minutes
(Summary format)**

Chairperson Ms. Dori Gaier called the meeting to order at 7:00 P.M.

MEMBERS PRESENT: Mr. Charles Harris, Ms. Rhonda Zimmers, Mr. James Burkhardt, Mr. Mark Brown, and Ms. Dori Gaier.

MEMBERS ABSENT: Mr. Mathew Ryan and Ms. Denise Williams.

OTHERS PRESENT: Stephen Thompson, Planning, Zoning, and Code Administrator
Cheyenne Pinkerman, Community Development Specialist.

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SUBJECT: Approval January 20, 2021 and December 21, 2021 meeting minutes.

Ms. Gaier asked if the Board had any corrections or additions to add to the minutes.

Hearing none, Ms. Gaier asked the Board members to voice yes if they were in favor of approving the minutes. Members voiced yes.

Ms. Gaier asked if any opposed to voice nay. Hearing none, Ms. Gaier stated the minutes stand approved.

Case #21-A-06 Request from Jay Crawford for a conditional use permit for a daycare center at 2043 Memorial Dr. in a RS-5, Low Density, Single-Family Residence District

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a conditional use permit to start an adult daycare center. The center will be for developmentally disabled and hours of operation will be Monday through Friday from 8:30 AM to 1:30 PM and Saturday from 11:00 AM to 4:00 PM.

ANALYSIS for Conditional Use:

In considering an application for a conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures, and the consistency therewith of the proposed use and development. Before authorizing a use as a conditional use, the Board shall review the facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects. The Board shall use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

Staff Comment: It would not.

(2) Is in fact a conditional use as established under the provisions of this Springfield Zoning Code as eligible to be permitted in the district involved;

Staff Comment: Yes.

(3) Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Springfield Zoning Code;

Staff Comment: Yes.

(4) Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;

Staff Comment: Yes. It is an existing building.

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

Staff Comment: Yes.

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

Staff Comment: It will not.

(7) Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. Upon authorizing a conditional use, the Board shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Springfield Zoning Code for the particular conditional use, as the Board may deem necessary for the protection of adjacent properties and the public interest.

Staff Comment: Yes, it does.

RETURNED REPORTS FROM STAFF:

Service Department: Recommend approval

Building Inspections: Recommend approval; they will need to get permits through the Fire and Building Department

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

STAFF RECOMMENDATION:

Approval of the conditional use permit.

Ms. Gaier asked if the board had any questions for Mr. Thompson. Hearing none, Ms. Gaier asked if the applicant wished to speak. Ms. Gaier asked if the board had any further questions for applicant. Hearing none, Ms. Gaier asked if there were any further questions or if anyone else wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing.

MOTION: Mr. Burkhardt made a motion to close the public hearing. Seconded by Mr. Brown. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-06.

MOTION: Motion by Mr. Brown to approve the conditional use permit. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no objection.
2. It is a conditional use.
3. It will help the community.

YEAS: Mr. Harris, Mr. Burkhardt, Ms. Zimmers, Mr. Brown, and Ms. Gaier.

NAYS: None.

Motion approved 5 to 0.

Case #21-A-07 Request from Collin Link for a variance from Chapter 1158.02(a) to not install new trees along the right of way at 2105 Sheridan Ave. in a M-1, General Manufacturing District.

Ms. Gaier stated that the public hearing was now open and asked for Mr. Thompson to read the staff report.

The applicant seeks a variance to not install trees along the right of way. Chapter 1158.02(a) requires trees to be planted every 40 feet along a right of way for new construction. Tri State Forest is constructing a new 22,000 square foot warehouse. The applicant states the location of utility lines will require constant trimming once the trees reach maturity.

ANALYSIS for Variance:

The Board may grant a variance only where there exists a "practical difficulty" as defined by the

courts in Ohio in established case law. The Ohio Supreme Court's decision in *Kisil v. City of Sandusky*, (1984) 12 Ohio State 3d 30, is a land mark decision in establishing common law governing variances by distinguishing between "use" and "area variances." Area variances involve an exception from such requirements as yard, lot, and height standards. The Supreme Court established that a practical difficulty must exist before an area variance can be granted. Then subsequent to this case, in *Duncan v. Village of Middlefield*, (1986) 23 Ohio 3d 83, the Ohio Supreme Court more fully explained the practical difficulty standards. The factors to be considered and weighed in determining whether a property owner seeking a variance has encountered a practical difficulty in the use of his/her property include, but are not limited to:

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: Yes. Trees could be planted closer to the new building.

2. Whether the variance is substantial;

Staff Comment: Yes.

3. Whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

Staff Comment: No.

4. Whether the variance would adversely affect the delivery of government services (e.g., water, sewer);

Staff Comment: No.

5. Whether the property owner purchased the property with the knowledge of the zoning restrictions;

Staff Comment: No.

6. Whether the property owner's predicament can be obviated through some method other than a variance; or

Staff Comment: Yes. Trees could be planted closer to the new building.

7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Staff Comment: Yes.

RETURNED REPORTS FROM STAFF:

Service/Engineering Department: Recommend approval

Building Inspections: Recommend approval

Engineering Division: Recommend approval

Fire Department: Recommend approval

City Manager's Office: Recommend approval

STAFF RECOMMENDATION:

Approval of the variance.

Ms. Gaier asked if the board had any questions for Mr. Thompson.

Ms. Zimmers asked if there was a tree that was preferred.

Mr. Thompson explained there was a list available from the forestry division but most the trees grow over 40 feet.

Ms. Gaier stated there were no trees on the property.

Mr. Thompson explained trees were not required when the building was built. Mr. Thompson stated they would only require trees in front of the building.

Ms. Gaier felt the trees would look out of place.

Mr. Thompson stated he agreed it would not look uniform.

Ms. Zimmers asked if trees would be included in the parking lot.

Mr. Thompson stated that was not required for this case. Mr. Thompson stated that was a specific requirement that states there had to be a tree within 50 feet of a parking area.

Ms. Zimmers questioned if there would be any landscaping with the new construction.

Mr. Thompson stated he had seen no plans for landscaping.

Ms. Gaier asked if there were any further questions for Mr. Thompson. Hearing none, Ms. Gaier asked if there was anyone else that wished to speak. Hearing none, Ms. Gaier asked for a motion to close the public hearing,

MOTION: Ms. Zimmers made a motion to close the public hearing. Seconded by Mr. Harris. Approval by voice vote.

Ms. Gaier stated that the public hearing was now closed and asked for a motion to approve Case #21-A-07.

MOTION: Motion by Mr. Burkhardt to approve a variance from Chapter 1158.02(a) to not install new trees along the right of way at 2105 Sheridan Ave. in a M-1, General Manufacturing District. Seconded by Ms. Zimmers.

Hearing no further discussion or questions, the Board determined the following findings of facts:

1. There is no objection.
2. The utility lines do propose an issue.
3. The new building will improve the area.

YEAS: Mr. Harris, Mr. Burkhardt, Ms. Zimmers, Mr. Brown, and Ms. Gaier.

NAYS: None

Motion approved 5 to 0.

Board Comments: None.

Staff Comments: None.

Subject: Adjournment

Mr. Burkhardt made a motion to adjourn the meeting. Seconded by Ms. Zimmers.

Ms. Gaier adjourned the meeting at 7:20 p.m.

<i>Dori Gaier</i>	dotloop verified 06/28/21 11:06 AM EDT PDWW-7SAX-SUX3-BPPQ
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Ms. Dori Gaier, Chairperson

Ms. Denise Williams, Vice-Chairperson